

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00646-TNM**

HUMANE SOCIETY OF THE UNITED STATES v. ANIMAL
AND PLANT HEALTH INSPECTION SERVICE et al

Assigned to: Judge Trevor N. McFadden
Cause: 05:552 Freedom of Information Act

Date Filed: 03/21/2018
Date Terminated: 06/03/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**HUMANE SOCIETY OF THE
UNITED STATES**

represented by **Kimberly Denise Ockene**
HUMANE SOCIETY OF THE UNITED
STATES
Animal Protection Litigation
1255 23rd Street, NW
Suite 450
Washington, DC 20037
(202) 285-1388
Fax: (202) 778-6134
Email: kockene@humanesociety.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anna Elizabeth Frostic
HUMANE SOCIETY OF THE UNITED
STATES
Animal Protection Litigation
1255 23rd Street, NW
Suite 450
Washington, DC 20037
(202) 676-2333
Fax: (202) 778-6126
Email: afrostic@humanesociety.org
ATTORNEY TO BE NOTICED

Laura Friend
HUMANE SOCIETY OF THE UNITED
STATES
Animal Protection Litigation
1255 23rd Street, NW
Suite 450
Washington, DC 20037
(202) 676-2331
Fax: (202) 778-6134
Email: lfriend@humanesociety.org
ATTORNEY TO BE NOTICED

V.

Defendant

**ANIMAL AND PLANT HEALTH
INSPECTION SERVICE**

represented by **Paul Cirino**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2529
Fax: (202) 252-2599
Email: paul.cirino@usdoj.gov
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Joshua M. Kolsky
 U.S. ATTORNEY'S OFFICE FOR THE
 DISTRICT OF COLUMBIA
 555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-2541
 Fax: (202) 252-2599
 Email: joshua.kolsky@usdoj.gov
 TERMINATED: 12/18/2018

Defendant

**UNITED STATES DEPARTMENT OF
 AGRICULTURE**

represented by **Paul Cirino**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joshua M. Kolsky
 (See above for address)
 TERMINATED: 12/18/2018

Defendant

SONNY PURDUE
*in his official capacity as Secretary of the
 United States Department of Agriculture*
 TERMINATED: 06/14/2018

represented by **Paul Cirino**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joshua M. Kolsky
 (See above for address)
 TERMINATED: 12/18/2018

Date Filed	#	Docket Text
03/21/2018	<u>1</u>	COMPLAINT against ALL DEFENDANTS (Filing fee \$ 400 receipt number 0090-5383001) filed by HUMANE SOCIETY OF THE UNITED STATES. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons)(Friend, Laura) (Entered: 03/21/2018)
03/21/2018	<u>2</u>	Corporate Disclosure Statement by HUMANE SOCIETY OF THE UNITED STATES. (Friend, Laura) (Entered: 03/21/2018)
03/21/2018		Case Assigned to Judge Trevor N. McFadden. (zmd) (Entered: 03/23/2018)
03/26/2018	<u>3</u>	SUMMONS (5) Issued Electronically as to ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE, U.S. Attorney and U.S. Attorney General. (Attachments: # <u>1</u> Notice and Consent) (tth) (Entered: 03/26/2018)
04/11/2018	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/2/2018. Answer due for ALL FEDERAL DEFENDANTS by 5/2/2018. (Attachments: # <u>1</u> Exhibit Receipts of Mailing)(Friend, Laura) (Entered: 04/11/2018)
04/11/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 4/2/2018. (Attachments: # <u>1</u> Exhibit Receipts of Mailing)(Friend, Laura) (Entered: 04/11/2018)
04/11/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. ANIMAL AND PLANT HEALTH INSPECTION SERVICE served on 4/2/2018 (Attachments: # <u>1</u> Exhibit Receipt and Tracking)(Friend, Laura) (Entered: 04/11/2018)

04/11/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF AGRICULTURE served on 3/30/2018 (Attachments: # <u>1</u> Exhibit Receipt and Tracking)(Friend, Laura) (Entered: 04/11/2018)
04/11/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. SONNY PURDUE served on 3/30/2018 (Attachments: # <u>1</u> Exhibit Receipts of Mailing)(Friend, Laura) (Entered: 04/11/2018)
04/11/2018	<u>9</u>	STANDING ORDER Establishing Procedures for Cases Before Judge Trevor N. McFadden. The parties are hereby ORDERED to read and comply with the directives in the attached standing order. Signed by Judge Trevor N. McFadden on 4/11/2018. (lctnm2) (Entered: 04/11/2018)
04/25/2018	<u>10</u>	NOTICE of Appearance by Joshua M. Kolsky on behalf of ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE (Kolsky, Joshua) (Entered: 04/25/2018)
04/25/2018	<u>11</u>	Unopposed MOTION for Extension of Time to <i>File Answer or Otherwise Respond to Complaint</i> by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 04/25/2018)
04/26/2018		MINUTE ORDER. The Defendants' <u>11</u> Unopposed Motion for Extension of Time is hereby GRANTED. The Defendants shall file their answer or other responsive pleading on or before June 1, 2018. Signed by Judge Trevor N. McFadden on 4/26/2018. (lctnm2) (Entered: 04/26/2018)
04/26/2018		Set/Reset Deadlines: Defendants' response to Complaint due by 6/1/2018. (hmc) (Entered: 04/26/2018)
05/31/2018	<u>12</u>	WITHDRAWN pursuant to notice filed on 6/14/2018.....MOTION to Dismiss <i>in Part</i> by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) Modified on 6/14/2018 (hmc). (Entered: 05/31/2018)
06/14/2018	<u>13</u>	NOTICE of Voluntary Dismissal by HUMANE SOCIETY OF THE UNITED STATES (Friend, Laura) (Entered: 06/14/2018)
06/14/2018	<u>14</u>	NOTICE OF WITHDRAWAL OF MOTION by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE re <u>12</u> MOTION to Dismiss <i>in Part</i> (Kolsky, Joshua) (Entered: 06/14/2018)
06/15/2018		MINUTE ORDER. Upon consideration of the Plaintiff's <u>13</u> Notice of Voluntary Dismissal In Part, and the Government's <u>14</u> Notice withdrawing its <u>12</u> Motion to Dismiss In Part, Count Four of the <u>4</u> Complaint is DISMISSED without prejudice, and all claims against U.S. Secretary of Agriculture Sonny Perdue are DISMISSED without prejudice. The Government shall file an answer on or before June 28, 2018. SO ORDERED. Signed by Judge Trevor N. McFadden on 6/15/2018. (lctnm2) (Entered: 06/15/2018)
06/18/2018		Set/Reset Deadlines: Government's answer due by 6/28/2018. (hmc) (Entered: 06/18/2018)
06/28/2018	<u>15</u>	ANSWER to Complaint by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE.(Kolsky, Joshua) (Entered: 06/28/2018)
07/17/2018	<u>16</u>	NOTICE of Appearance by Kimberly Denise Ockene on behalf of All Plaintiffs (Ockene, Kimberly) (Entered: 07/17/2018)
07/25/2018	<u>17</u>	Joint STATUS REPORT by HUMANE SOCIETY OF THE UNITED STATES. (Friend, Laura) (Entered: 07/25/2018)
07/26/2018		MINUTE ORDER. Upon consideration of the parties' <u>17</u> Joint Status Report, the Court adopts the briefing scheduled proposed therein. Defendants shall file their Motion for Summary Judgment by September 7, 2018; Plaintiff shall file its Response to Defendants' Motion for Summary Judgment, and its Cross-Motion for Summary

		Judgment by November 2, 2018; Defendants shall file their Response to Plaintiff's Cross-Motion for Summary Judgment, and Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment by November 29, 2018; and Plaintiff shall file its Reply to Defendants' Response to Plaintiff's Cross-Motion for Summary Judgment by December 20, 2018. SO ORDERED. Signed by Judge Trevor N. McFadden on 7/26/2018. (lctnm2) (Entered: 07/26/2018)
07/27/2018		Set/Reset Deadlines: Defendants' Motion for Summary Judgment due by 9/7/2018. Plaintiff's Response to Defendant's Motion for Summary Judgment and its Cross-Motion due by 11/2/2018. Defendants' Response to Plaintiff's Cross-Motion and Reply in support of its Motion for Summary Judgment due by 11/29/2018. Plaintiff's Reply in support of its Cross-Motion due by 12/20/2018. (hmc) (Entered: 07/27/2018)
09/07/2018	<u>18</u>	MOTION for Summary Judgment by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14, # <u>17</u> Exhibit 15, # <u>18</u> Exhibit 16)(Kolsky, Joshua) (Entered: 09/07/2018)
11/02/2018	<u>19</u>	Cross MOTION for Summary Judgment by HUMANE SOCIETY OF THE UNITED STATES (Attachments: # <u>1</u> Declaration of Debra L. Leahy, # <u>2</u> Declaration of John Goodwin, # <u>3</u> Text of Proposed Order)(Friend, Laura) (Entered: 11/02/2018)
11/02/2018	<u>20</u>	Memorandum in opposition to re <u>18</u> MOTION for Summary Judgment filed by HUMANE SOCIETY OF THE UNITED STATES. (Attachments: # <u>1</u> Declaration of Debra L. Leahy, # <u>2</u> Declaration of John Goodwin, # <u>3</u> Text of Proposed Order)(Friend, Laura) (Entered: 11/02/2018)
11/21/2018	<u>21</u>	Consent MOTION for Extension of Time to File <i>Summary Judgment Briefs</i> by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, SONNY PURDUE, UNITED STATES DEPARTMENT OF AGRICULTURE (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 11/21/2018)
11/27/2018		MINUTE ORDER granting <u>21</u> Consent Motion for Extension of Time to File Summary Judgment Briefs. Defendants shall file their opposition to Plaintiff's Cross Motion for Summary Judgment no later than December 13, 2018. It is further ordered that Plaintiffs shall file any reply no later than January 24, 2019. Signed by Judge Trevor N. McFadden on 11/27/2018. (lctnm2) (Entered: 11/27/2018)
11/28/2018		Set/Reset Deadlines: Defendants' opposition to Plaintiff's Cross-Motion for Summary Judgment due by 12/13/2018. Plaintiff's reply due by 1/24/2019. (hmc) (Entered: 11/28/2018)
12/13/2018	<u>22</u>	REPLY to opposition to motion re <u>18</u> MOTION for Summary Judgment <i>and Opposition to Plaintiff's Cross-Motion for Summary Judgment</i> filed by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Statement of Facts (Response), # <u>2</u> Declaration)(Kolsky, Joshua) (Entered: 12/13/2018)
12/13/2018	<u>23</u>	Memorandum in opposition to re <u>19</u> Cross MOTION for Summary Judgment <i>and Reply in Support of Defendants' Motion for Summary Judgment</i> filed by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Attachments: # <u>1</u> Statement of Facts (Response), # <u>2</u> Declaration)(Kolsky, Joshua) (Entered: 12/13/2018)
12/18/2018	<u>24</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Paul Cirino on behalf of All Defendants Substituting for attorney Joshua M. Kolsky (Cirino, Paul) (Entered: 12/18/2018)
01/24/2019	<u>25</u>	REPLY to opposition to motion re <u>19</u> Cross MOTION for Summary Judgment filed by HUMANE SOCIETY OF THE UNITED STATES. (Friend, Laura) (Entered: 01/24/2019)
02/13/2019	<u>26</u>	ORDER. It is hereby ordered that on or before March 6, 2019, the Defendant shall file a Sur-Reply addressing the Plaintiffs argument that the Court may not consider

		paragraphs five through eleven of Tonya G. Woods's supplemental declaration, ECF No. 23-2. The Defendant may also file additional declarations or other admissible evidence addressing how releasing the information at issue may potentially cause unwanted contact, harassment, and stigma. If the Defendant submits additional declarations or other evidence, it is further ordered that the Plaintiff may respond no later than March 20, 2019. See attached order for details. Signed by Judge Trevor N. McFadden on 2/13/2019. (lctnm2) (Entered: 02/13/2019)
02/14/2019		Set/Reset Deadlines: APHIS' Sur-Reply due by 3/6/2019. Humane Society's Response due by 3/20/2019. (hmc) (Entered: 02/14/2019)
03/06/2019	<u>27</u>	SURREPLY to re <u>18</u> MOTION for Summary Judgment filed by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE. (Cirino, Paul) (Entered: 03/06/2019)
04/10/2019		MINUTE ORDER. The parties are hereby ordered to appear for a Motions Hearing on the Defendant's <u>18</u> Motion for Summary Judgment and the Plaintiff's <u>19</u> Cross-Motion for Summary Judgment on April 30, 2019, at 10 am in Courtroom 2 before Judge Trevor N. McFadden. SO ORDERED. Signed by Judge Trevor N. McFadden on 04/10/2019. (lctnm2) (Entered: 04/10/2019)
04/10/2019		Set/Reset Hearings: Motion Hearing set for 4/30/2019 at 10:00 AM in Courtroom 2 before Judge Trevor N. McFadden. (hmc) (Entered: 04/10/2019)
04/23/2019	<u>28</u>	NOTICE of Appearance by Anna Elizabeth Frostic on behalf of HUMANE SOCIETY OF THE UNITED STATES (Frostic, Anna) (Entered: 04/23/2019)
04/26/2019		MINUTE ORDER. The Motions Hearing set for April 30, 2019 is hereby rescheduled for May 2, 2019 at 10 am in Courtroom 2 before Judge Trevor N. McFadden. Signed by Judge Trevor N. McFadden on 04/26/2019. (lctnm2) (Entered: 04/26/2019)
04/26/2019		Set/Reset Hearings: Motion Hearing rescheduled for 5/2/2019 at 10:00 AM in Courtroom 2 before Judge Trevor N. McFadden. (hmc) (Entered: 04/26/2019)
05/02/2019		Minute Entry for proceedings held before Judge Trevor N. McFadden: Motion Hearing held on 5/2/2019 re <u>18</u> MOTION for Summary Judgment filed by ANIMAL AND PLANT HEALTH INSPECTION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE and <u>19</u> Cross MOTION for Summary Judgment filed by HUMANE SOCIETY OF THE UNITED STATES. Matter taken under advisement. (Court Reporter: Patricia Kaneshiro-Miller.) (hmc) (Entered: 05/02/2019)
06/03/2019	<u>29</u>	TRANSCRIPT OF PROCEEDINGS before Judge Trevor N. McFadden held on May 2, 2019; Page Numbers: 1-50. Date of Issuance: June 3, 2019. Court Reporter/Transcriber Patricia A Kaneshiro-Miller, Telephone number 202-354-3243, Tape Number: Patricia_Kaneshiro-Miller@dcd.uscourts.gov. Transcripts may be ordered by submitting the Transcript Order Form<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P>Redaction Request due 6/24/2019. Redacted Transcript Deadline set for 7/4/2019. Release of Transcript Restriction set for 9/1/2019.(pk) (Entered: 06/03/2019)
06/03/2019	<u>30</u>	MEMORANDUM OPINION re the Defendants' <u>18</u> Motion for Summary Judgment and the Plaintiff's <u>19</u> Cross-Motion for Summary Judgment. Signed by Judge Trevor N. McFadden on 06/03/2019. (lctnm2) (Entered: 06/03/2019)
06/03/2019	<u>31</u>	ORDER granting in part and denying in part <u>18</u> Motion for Summary Judgment; granting in part and denying in part <u>19</u> Motion for Summary Judgment. For the reasons set forth in the accompanying <u>30</u> Memorandum Opinion, the Defendants' <u>18</u> Motion

		for Summary Judgment is granted in part and denied in part. It is further ordered that the Plaintiff's <u>19</u> Cross-Motion for Summary Judgment is granted in part and denied in part. Signed by Judge Trevor N. McFadden on 06/03/2019. (lctnm2) (Entered: 06/03/2019)
06/11/2019	<u>32</u>	Joint MOTION for Extension of Time to File <i>Motion for Fee Recovery</i> by HUMANE SOCIETY OF THE UNITED STATES (Attachments: # <u>1</u> Text of Proposed Order)(Friend, Laura) (Entered: 06/11/2019)
06/11/2019	<u>33</u>	ORDER granting <u>32</u> Motion for Extension of Time to File. Upon consideration of the parties <u>32</u> Joint Motion for Extension of Deadline to File Motion for Fee Recovery, the Plaintiffs deadline for filing a motion for recovery of attorneys fees and costs under Federal Rule of Civil Procedure 54(d)(2)(B)(i) is extended as detailed in the attached order. Signed by Judge Trevor N. McFadden on 06/11/2019. (lctnm2) (Entered: 06/11/2019)